

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	: CRIMINAL NO. _____
v.	: DATE FILED: _____
TREMAINE DION BUIE	: VIOLATIONS:
KAY MELISSA LEVAN	18 U.S.C. § 371
BARNSWELL JONES,	: (Conspiracy to make false statements to a
a/k/a Christopher Slaughter	federal firearms licensee - 1 count)
	: 18 U.S.C. § 924(a)(1)(A)
	(Making false statements to a federal
	: firearms licensee - 1 count)
	18 U.S.C. § 922(g)(1)
	: (Possession of a firearm by a convicted
	felon - 2 counts)
	: 18 U.S.C. § 2
	(Aiding and Abetting - 1 count)
	: 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c)
	(Criminal Forfeiture)

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

BACKGROUND

AT ALL TIMES MATERIAL TO THIS INDICTMENT:

1. It was a federal felony crime to knowingly make any false statement or representation with respect to the information required to be kept in the records of firearms dealers who are federal firearms licensees ("FFLs") licensed by the Bureau of Alcohol, Tobacco and Firearms ("ATF") or the United States Department of the Treasury.

2. The Gun Gallery, located at 2807 Perkiomen Avenue, Mount Penn, Pennsylvania, was a federally licensed firearms dealer.

3. FFLs were licensed, among other things, to sell firearms and ammunition.

4. Various rules and regulations contained in and promulgated under the authority of Title 18, United States Code, Chapter 44 (Sections 921-929) govern the manner in which an FFL may sell firearms and ammunition. Among the rules and regulations governing FFLs were the following requirements:

- a. That an FFL not sell a firearm or ammunition to a person "who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year" ("a prohibited person");
- b. That a person seeking to buy a firearm fill out a Pennsylvania State Police Application/Record of Sale and wait for a background check to be performed to determine if the purchaser is a "prohibited person;"
- c. That a person seeking to purchase a firearm fill out a "Firearms Transaction Record," ATF Form 4473. Part of Form 4473 requires that the prospective purchaser represent, subject to penalties of perjury, that he or she is the actual buyer of the firearm, rather than a "straw purchaser" acquiring the firearm on behalf of another. The Form 4473 in effect at the times relevant to this Indictment contained language explaining what it means to be an actual buyer as follows:

WARNING - The Federal firearms laws require that the individual filling out this form must be buying the firearm for himself or herself or as a gift. Any individual who is not buying the firearms for himself or herself or as a gift, but who completes this form, violates the law. Example: Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. If Mr. Jones fills out this form, he will violate the law. However, if Mr. Jones buys a firearm with his own money to give to Mr. Smith as a birthday present, Mr. Jones may lawfully

complete this form. A licensee who knowingly delivers a firearm to an individual who is not buying the firearm for himself or herself or as a gift violates the law by maintaining a false ATF 4473.

- d. That an FFL not sell "any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age."

5. FFLs were required, pursuant to regulations promulgated by ATF under the authority of Title 18, United States Code, Chapter 44 (Sections 921-929), to maintain a record, in the form of a completed Form 4473, of the identity of the actual buyer of firearms sold by the FFLs.

6. On or about July 31, 2003, in the Eastern District of Pennsylvania, defendants
TREMAINE DION BUIE
and
KAY MELISSA LEVAN

conspired and agreed together, and with others known and unknown to the grand jury, to commit offenses against the United States, that is, to violate Title 18, United States Code, Section 924 (a)(1)(A) by knowingly making false statements and representations concerning information required to be kept by federal firearms licensees, that is, the identity of the actual buyer of firearms.

MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

7. At defendant TREMAINE DION BUIE's request, defendant KAY MELISSA

LEVAN, agreed to "straw purchase" a gun for him, paid for the gun with cash given to her by defendant BUIE, falsely stated on an ATF 4473 that she was the actual purchaser of the firearm, and after the purchase, gave the gun to defendant BUIE.

OVERT ACTS

In furtherance of the conspiracy, defendants TREMAINE DION BUIE and MELISSA KAY LEVAN committed the following overt acts in the Eastern District of Pennsylvania:

1. In or about July 2003, defendant TREMAINE DION BUIE asked defendant KAY MELISSA LEVAN to buy a .40 caliber pistol for him.

2. On or about July 31, 2003, defendant TREMAINE DION BUIE gave defendant KAY MELISSA LEVAN approximately \$400 and drove her to the Gun Gallery to purchase the firearm for him.

3. On or about July 31, 2003, at the Gun Gallery, defendant KAY MELISSA LEVAN completed Pennsylvania State Police Application/Record of Sale forms and ATF Form 4473 in connection with the purchase of a firearm, that is a Star, Model Ultra Star, .40 caliber pistol, Serial Number 12884-95, falsely representing that she was the actual buyer of the firearm when she was not.

4. On or about July 31, 2003, immediately after purchasing the .40 caliber pistol at the Gun Gallery, defendant KAY MELISSA LEVAN gave defendant TREMAINE DION BUIE the pistol.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

On or about July 31, 2003, at Mount Penn, in the Eastern District of Pennsylvania,
defendants

**TREMAINE DION BUIE
and
KAY MELISSA LEVAN**

knowingly made, and aided, abetted and willfully caused the making of, false statements and representations with respect to information required to be kept in the records of a federally licensed firearms dealer in connection with acquisition of firearms, that is, a Star, Model Ultra Star, .40 caliber pistol, Serial Number 12884-95, from a federally licensed firearm dealer, that is, The Gun Gallery, 2807 Perkiomen Avenue, Mount Penn, Pennsylvania, in that, at defendant TREMAINE DION BUIE'S direction, defendant KAY MELISSA LEVAN falsely represented on Department of Treasury ATF Form 4473, Firearms Transaction Records, that she was the actual buyer of the firearm, when in fact they knew that statement to be false and fictitious.

In violation of Title 18, United States Code, Sections 924 (a)(1)(A) and 2.

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 17, 2003, at Mount Penn and elsewhere in the Eastern District of Pennsylvania, defendant

TREMAINE DION BUIE,

having been convicted in a court of the Commonwealth of Pennsylvania of an offense punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate and foreign commerce, a loaded firearm, that is, a Star, Model Ultra Star, .40 caliber, serial number 12884-95.

In violation of Title 18, United States Code, Section 922 (g)(1).

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 17, 2003, at Reading, in the Eastern District of Pennsylvania,
defendant

BARNSWELL JONES,

a/k/a Christopher Slaughter,

having been previously convicted in a Court of the Commonwealth of Pennsylvania of an offense punishable by imprisonment for a term exceeding one year, knowingly possessed, in and affecting interstate and foreign commerce, a loaded firearm, that is a Taurus, model PT-92AFD, 9 millimeter, serial number TKB82991.

In violation of Title 18, United States Code, Section 922(g)(1).

NOTICE OF FORFEITURE

1. As a result of the violations of Title 18, United States Code, Sections 922(g)(1) and 924 (a)(1)(A) set forth in this Indictment, defendants

TREMAINE DION BUIE

and

KAY MELISSA LEVAN

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 924(d), and Title 28, United States Code, Section 2461(c), the firearm and ammunition involved in the commission of these offenses, including, but not limited to:

(1) Star, Model Ultra Star 40, .40 caliber pistol, serial number 12884-95,
and 9 live rounds of ammunition.

2. As a result of the violation of Title 18, United States Code, Section 922(g)(1), set forth in this Indictment, the defendant

BARNSWELL JONES,

a/k/a Christopher Slaughter

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 924(d), and Title 28, United States Code, Section 2461(c), the firearm and ammunition involved

in the commission of this offense, including, but not limited to:

(1) Taurus model PT-92AFD 9mm, Serial Number TKB82991 and 14 live rounds of ammunition.

All pursuant to Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 924(d).

A TRUE BILL:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney